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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/940,055	12/10/86	WHITNEY	

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EXAMINER	
[Signature]	
ART UNIT	PAPER NUMBER
500	5

DATE MAILED: 05/15/87

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449 | 4. <input type="checkbox"/> Notice of informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-11 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☒ Claims 7 and 8 are allowed.
4. ☒ Claims 1-6 and 9-11 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

Claims 9 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no proper antecedent basis for either "the forward side wall" or "the forwardmost groove wall" as recited in claims 9 and 11, respectively.

Correction is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless-

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Simms et al.

The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claim 5 is rejected under 35 U.S.C. 103 as being unpatentable over Simms et al.

Simms shows a number of wheels for limiting the depth of cut of the cutting cylinder. To specify that two wheels be on one side of the cylinder and one wheel be on the other side of the cylinder is a matter of obvious choice in design and certainly within the scope of the invention disclosed by Simms.

Claims 10 and 11 are rejected under 35 U.S.C. 103 as being unpatentable over Dofsen in view of Liddle et al.

Dofsen describes a road marker system having all of the structure defined in claims 10 and 11 except for reflective coating which is placed in the grooves.

Liddle teaches a self-draining road marker system having grooves whose sides are covered with retroreflective coatings. Rain water runs out of the grooves and onto a shoulder so that the retroreflective coating remains free of water in order to maintain the visibility of the marking system under adverse weather conditions.

To coat the grooves of Dofsen with retroreflective material would have been obvious when considering Liddle since Liddle teaches the conventionality of coating grooves in a road marking system with a retroreflective material. Like Liddle, the Dofsen system will drain rain water from the grooves.

Claims 7 and 8 are allowable over the prior art of record.

Claim 9 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Whitney was cited by applicant and shows a road marker having retroreflectively coated drainage grooves.

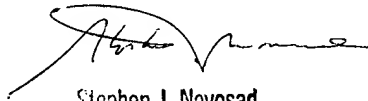
Weaver et al., Grist et al., Ellis and German Patent No. 2,209,743 show apparatus for forming either longitudinal or transverse grooves in a road.

German Patent No. 3,200,862 shows a device for cutting grooves in a pavement. The cutting device may be slightly tilted from the horizontal plane of the road.

Any inquiry concerning this communication should be directed to Examiner John F. Letchford at telephone number 703-557-6200.

JFL 5-13-87

Letchford/js
5/7/87
5/11/87



Stephen J. Novosad
Primary Examiner
Art Unit 356